



KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/132/2014/ARE-4 Multi Storied Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001
Date:03.06.2019.

RECOMMENDATION

Sub:-Departmental inquiry against: Sri Ganga
Narasimhaiah, Village Accountant, Bidaluru
Circle, Kasaba Hobli, Devanahally Taluk,
Bangalore Rural District.

Ref: (1) Government Order No.RD 7 BDP 2014,
Bangalore dt.18.02.2014.

(2) Nomination Order No.LOK/INQ/14-
A/132/ 2014 Bengaluru Dated 11.03.2014
of Upalokayukta, State of Karnataka,
Bengaluru.

3) Inquiry Report dated 31.05.2019 of
Additional Registrar of Enquiries-4,
Karnataka Lokayukta, Bengaluru.

The Government by its Order dated 18.02.2014,
initiated the disciplinary proceedings against Sri Ganga
Narasimhaiah, Village Accountant, Bidaluru Circle, Kasaba
Hobli, Devanahally Taluk, Bangalore Rural District

(hereinafter referred to as Delinquent Government Official, for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/132/2014 Bengaluru Dated 11.03.2014, nominated the Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO Sri Ganga Narasimhaiah, Village Accountant, Bidaluru Circle, Kasaba Hobli, Devanahally Taluk, Bangalore Rural District, was tried for the following charge:-

“ That, you DGO Sri Ganga Narasimhaiah while working as Village Accountant, Bidaluru Circle, Kasaba Hobli, Devanahally Taluk, Bangalore Rural District during the year 2012 issued a notice (Form No.14) to the complainant Sri Manjunath S/o

Venkateshappa, R./o Kodagurki Village, Devanahalli Taluk, Bangalore Rural District intimating him forwardal of documents of sale deed for 28 ½ guntas land in Sy.No.160 in Kodagurki village purchased by complainant from one Sri Ramachandramurthy to produce the documents of Agriculturist Certificate, documents relating to source of income to change the katha. Accordingly, complainant produced the said documents on 13.07.2012. In spite of it, you DGO demanded a bribe of Rs10,000/- from the complainant to change the katha and told him that you will not attend the work, unless complainant pay the bribe of Rs.10,000/-. On pleading his inability to pay that much of bribe, you DGO reduced your demand to Rs.6000/-. Thereafter, you DGO informed the complainant to pay the said bribe of Rs.6000/- on your behalf in the hands of your assistant Sri Munianjanappa. Accordingly, without any other option, complainant lodged complaint before Lokayukta police and paid the illegal gratification of Rs.6000/- in the hands of your assistant Munianjanappa after confirming the demand by you DGO and instruction to your assistant Munianjanappa at about 5-50 p.m. in the office of the Village Accountant, Bidaluru, Kasaba Hobli on 16.07.2012. Thereby you being a Government servant failed to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed misconduct as enumerated u/r 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966. ”

4. The Inquiry Officer (Additional Registrar of Enquiries-4) on proper appreciation of oral and documentary evidence has held that the Disciplinary

Authority has ' proved ' the aforestated charge against DGO Sri Ganga Narasimhaiah, Village Accountant, Bidaluru Circle, Kasaba Hobli, Devanahally Taluk, Bangalore Rural District.

5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement of DGO furnished by the Inquiry Officer, the DGO Sri Ganga Narasimhaiah is due to retire from service on 30.6.2023.

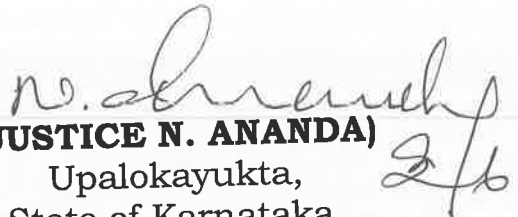
7. Having regard to the nature of charge (demand and acceptance of bribe) '*proved*' against DGO Sri Ganga Narasimhaiah,

- i) it is hereby recommended to the Government to impose penalty of compulsory retirement from service and also

to permanently withhold 20% of pension payable to DGO Sri Ganga Narasimhaiah, Village Accountant, Bidaluru Circle, Kasaba Hobli, Devanahally Taluk, Bangalore Rural District.

8. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta,
State of Karnataka,
Bengaluru.

KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/132/2014/ARE-4

M.S. Building
Dr.B.R.Ambedkar Road
Bengaluru-560 001
Date: 31/05/2019

:: INQUIRY REPORT ::

Sub: Departmental Inquiry against,

Sri Ganga Narasimhaiah
Village Accountant
Bidaluru Circle
Kasaba Hobli
Devanahalli Taluk
Bengaluru Rural District

Ref:

- 1) Report u/s 12(3) of the K.L Act, 1984 in Compt/Uplok/BD/2156/2013/ARLO-2 Dated:26/12/2013
- 2) Government Order No. ಕಂಇ 7 ಬಿಡಿಪಿ 2014 Bengaluru, dated: 18/02/2014
- 1) Order No.LOK/INQ/14-A/132/2014, Bengaluru dated:11/03/2014 of the Hon'ble Upalokayukta

This Departmental Inquiry is directed against Sri Ganga Narasimhaiah, Village Accountant, Bidaluru Circle, Kasaba Hobli, Devanahalli Taluk, **Bengaluru Rural District** (herein after referred to as the Delinquent Government Official in short "DGO").

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.
3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 11/03/2014 cited above at reference-3, nominated Additional Registrar of Inquiries-4 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Inquires-4 prepared Articles of Charge, Statement of Imputations of misconduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.
4. The Articles of Charges framed by ARE-4 against the DGO is as below;

ANNEXURE NO.I
CHARGE

That, you-DGO Sri Ganga Narasimhaiah while working as Village Accountant, Bidaluru Circle, Kasaba Hobli, Devanahalli Taluk, Bangalore Rural District during the year 2012 issued a notice (Form No.14) to the complainant Sri Manjunath S/o Venkateshappa, R/o Kodagurki Village, Devanahalli Taluk, Bangalore Rural District intimating him forwardal of documents of sale deed for 28 ½ guntas land in Sy. No. 160 in Kodagurki Village purchased by complainant from One Sri Ramachandramurthy to produce the documents of

Agriculturist Certificate, documents relating source of income to change the khatha. Accordingly, complainant produced the said documents on 13/07/2012. In spite of it, you DGO demanded a bribe of Rs.10,000/- from the complainant to change the khatha and told him that you will not attend the work, unless (complainant) pay the bribe of Rs,10,000/-. On pleading of his inability to pay that much of bribe you DGO reduced your demand to Rs.6000/-. Thereafter, you DGO informed the complainant to pay the said bribe of Rs.6000/- on your behalf in the hands of your assistant Sri Muniajanappa. Accordingly, without any other option. Complainant lodged before Lokayukta Police and paid the illegal gratification of Rs.6000/- in the hands of your assistant Muniajanappa after confirming the demand by you DGO and instruction to your assistant Munianjanappa at about 5-50 p.m. in the office of the Village Accountant, Bidaluru, Kasaba Hobli on 16/07/2012. Thereby you being a Government Servant failed to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE NO.II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

On the basis of a report of the Additional Director General of Police, Karnataka Lokayukta, Bangalore, along with the investigation papers and report filed by the Police Inspector in Karnataka Lokayukta, Bangalore Rural District (hereinafter referred to as 'I.O.' for short), it is alleged that the DGO has committed misconduct, when approached by Sri Manjunath S/o

Venkateshappa, Kodagurki Village, Devanahalli Taluk, Bangalore Rural District (hereinafter referred to as 'complainant' for short). An investigation was taken up by invoking the power vested under Section 7(2) of the Karnataka Lokayukta Act, 1984.

The brief facts of the case are;

The complainant is the resident of Kodagurki Village, he had purchased a land bearing Sy No. 160 measuring 28 ½ guntas, of Kodagurki village from Sri Ramachandramurthy, in this regard documents were forwarded from the office of the Sub-Registrar to the office of Tahasildar, Devanahalli for changing the khatha, same was intimated to the complainant by the DGO and he also issued a notice (Form No.14) to the complainant directing him to produce the Agricultural Certificate and other documents and also document relating the source of income. Complainant in turn submitted all the documents to the DGO on 13/07/2012, after receiving the said documents, the DGO demanded the bribe amount of Rs.10,000/- from the complainant, but the complainant sought reason for the said demand, the DGO told him the unless the money is given, his work will not be attended. However, the complainant expressed his inability to pay Rs.10,000/- and requested to reduce the same, then the DGO demanded Rs.6000/- and also forced to give said amount immediately.

Since the complainant was not willing to pay the said bribe amount, he approached the Lokayukta Police. The Lokayukta Police conducted a trap. On 16.07.2012 when complainant met the DGO's assistant at his office,

wherein the DGO's assistant by name Sri Manianjanappa received the tainted (bribe) amount from the complainant at the direction of the DGO for showing the official favour and was caught red handedly. Added to that, you-DGO has failed to give any satisfactory reply or explanation or account for the receipt of the said tainted (bribe) amount. The DGO caught red handed and was found in possession of the tainted (bribe) amount on the said date at the said place. The said tainted (bribe) amount found with the DGO was seized under a mahazar by the I.O.. Further, the statements of witnesses, including complainant, besides material and records collected and filed by the I.O., which show that you-DGO has committed repeated misconduct.

Said facts are supported by the material on record which prima facie show that you-DGO, a public/Government servant, has failed to maintain absolute integrity, besides devotion to duty and acted in a manner unbecoming of a Public/Government Servant, and thereby you-DGO has committed misconduct, and made yourself liable for disciplinary action.

Therefore, an investigation was taken up against you-DGO and an observation note was sent to you-DGO, calling upon you to show cause as to why recommendation should not be made to the Competent Authority for initiating departmental inquiry against you-DGO in connection with your misconduct. Though you-DGO gave your reply, however, the same is not convincing to stay or drop the proceedings as ordered in the file. Since said facts and material on record prima-

facie show that you-DGO has committed misconduct as per Rule 3(1) of KCS (Conduct) Rules, 1966. A report U/sec. 12(3) of Karnataka Lokayukta Act, was sent to the Competent Authority with a recommendation to initiate disciplinary proceedings Under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeal) Rules 1957 against you. In turn Competent Authority initiated disciplinary proceedings against you-DGO and entrusted the Enquiry to this institution vide Reference No.1 and Hon'ble Upalokayukta-2 nominated this Enquiry Authority, to conduct enquiry and report Vide reference No. 2. Hence, this charge.

5. DGO appeared before this Inquiry Authority on 23/06/2014 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an inquiry.

6. DGO has filed his written statement as follows:

The DGO denies the allegations made against him in the articles of charge and statement of imputations. The DGO at no point of time demanded or received any bribe or illegal gratification from the complainant. The DGO was falsely got trapped by the complainant. No official work of the complainant was pending with the DGO. The DGO denies the contents of the digital voice-recorder said to contain the conversation and the same is created for the purpose of this case. The DGO is also prosecuted before the Hon'ble Session court, Bengaluru on the same set of facts. Hence, he prays to postpone this enquiry till the completion of the criminal trial.

Hence, prays to exonerate him from the charges leveled against him in this case.

7. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all three witnesses as PW1 to PW3 and got marked documents at Ex.P1 to P23. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, DGO himself examined as DW1 and got marked documents at Ex.D1 to D7 and closed his evidence. Hence, recording the answers of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The Disciplinary Authority has not filed the written brief, but on the side of the DGO written brief has been filed. Oral arguments of the Presenting Officer and the learned counsel for the DGO was heard. The points, that arise for the consideration of this inquiry authority are:-

- 1) Whether the Disciplinary Authority has satisfactorily proved the charges framed against DGO?
- 2) What order?

9. My finding on the above points are as follows:-

Point No.1: In the “ **AFFIRMATIVE**”

Point No.2: As per the final order for the following:

:: REASONS ::

10. Point No.1: It is the case of the Disciplinary Authority that the DGO while working as Village Accountant, Bidaluru

Circle, KasabaHobli, Devanahalli Taluk, Bengaluru Rural District, notice was issued to the complainant to produce the documents to show that he is agriculturist, documents relating to source of income in respect of the change of khatha of 28 ½ guntas of land in sy.No. 160 of Kodagurti village which was purchased by the complainant and the complainant produced the documents on 13/07/2012 and inspite of the same the DGO demanded the bribe of Rs. 10,000/- and when the complainant pleaded his inability to pay the amount demanded the DGO reduced the amount to Rs. 6,000/- and on 16/07/2012 received the said amount from the complainant through his Assistant Sri Munianjinappa and thereby committed misconduct.

11. Complainant has been examined as PW1 and the copy of the complaint lodged by him in Lokayukta police station, Bengaluru Rural District is at Ex.P2.The gist of Ex.P2 is to the effect that PW1 purchased 28-08 guntas in sy.No. 160 of Kodagurti village from one Sri Ramachandra murthy in the month of March 2012. After registration of the sale deed the file was sent to the Devanahalli Taluk Office and in turn the same was sent to the DGO who was working as Village Accountant on Bidaluru Circle regarding the change of khatha of the above said land. Notice in Form No. 14 was issued to the complainant and in that respect complainant/PW1 produced the necessary documents on 13/07/2012 to the DGO the DGO demanded an amount of Rs. 10,000/- as bribe and when PW1 told that he has furnished the documents the DGO told that without giving the amount the work of the complainant cannot be done and when PW1 requested to

reduce the amount the DGO reduced the amount to Rs.6,000/- and told that if Rs. 6,000/- is not given the file of the complainant will not move. PW1 told the DGO that he will give the amount on Monday and lodged the complaint on 16/07/2012.

12. PW1 has deposed about purchasing the land in sy.NO. 160 and in that connection the 'J' Form had been sent to Devanahalli Taluk Office regarding change of khatha. Ex.P1 is the copy of the Form NO. -14 and it discloses that it is the notice issued to the complainant u/sec. 79(A) and (B) of the Karnataka Land Reforms Act. In the same no date is mentioned and it discloses that it has been issued by the Tahasildar, Devanahalli Taluk. PW1 has deposed that the DGO served the above said notice to him and in that connection he produced the necessary documents to the DGO. But the DGO insisted for payment of Rs. 10,000/- and he told that he is not in a position to pay the amount demanded the DGO told that at least Rs.6,000/- has to be given and if the amount is not given the file will not go forward and that day was Friday and Saturday and Sunday were holidays and he told the DGO that he was come on Monday. He has deposed that on Monday namely on 16/07/2012 he lodged the complaint in the Lokayukta Police Station and also produced the copy of the notice issued to him as per Ex.P1. He has deposed that he produced the amount of Rs. 6,000/- (Rs.500x10+Rs.1,000x1) and the panchas noted down the denomination and numbers of the notes and the copy of the same is at Ex.P3. He has deposed about the proceedings

conducted in the Lokayukta police station mentioned in the Entrustment Mahazar, the copy of which is at Ex.P5.

13. In his cross-examination by the disciplinary authority, he has deposed that the tainted currency notes were kept in his pant pocket by pancha witness Sri Naresh and afterwards the hands of Sri Naresh was washed in the solution and that solution turned to pink colour. He has deposed that by confusion he has deposed in his examination in chief that the other panha witness by name Sri Ashok kept the tainted currency notes in his right side pant pocket. Thus PW1 has given his evidence about the entrustment mahazar (Ex.P5) which is in accordance with the averments made in Ex.P5. He has also deposed that Ex.P4 are the copies of the photographs taken in the Lokayukta police station at the time of the entrustment mahazar. He has deposed about the instructions given to him and to the shadow witness Si Ashok K.R. PW1 has deposed that after the entrustment mahazar, they left the Lokayukta police station at 4 p.m. and went to the Devahanalli Taluk Office. He has deposed that on the way he received the phone call from the DGO and he told that he is coming. He has deposed that the Assistant of the DGO by name Sri Munianjinappa also made phone call to him as to why PW1 has not yet come and he told that he is coming. He has deposed that himself and the shadow witness went to meet the DGO. But the DGO has not present and his Assistant Sri Munianjinappa was present and the DGO made the phone call to Sri Munianjinappa and Sri Munianjinappa gave the mobile phone to PW1 and told him that he will come late and to give amount to Sri Munianjinappa. He has deposed

that afterwards he gave the amount of Rs. 6,000/- to Munianjinappa and he received the amount in his right hand and kept the same in his right side pant pocket and afterwards he came out and gave the pre-instructed signal. He has deposed that he told the I.O. as to what happened and also showed the above said Sri Munianjinappa and I.O. introduced himself to Sri Munianjinappa and took him to the room of the Revenue Inspector. He has deposed that as per the instructions of the I.O. pancha witness removed the amount which was in the right side pant pocket of Sri Munianjinappa and those notes were the same notes mentioned in Ex.P3. He has deposed that the hand of Sri Munianjinappa was washed in the solution and that solution turned to pink colour. He has deposed that even the pant wash of the DGO was positive (inside portion of the right pocket) and that pant and amount was also seized. He has deposed that his file was also secured and the certified copy of the same was prepared and the copies of the same are at Ex.P6(44 sheets). He has deposed that the copy of the explanation given by Sri Munianjinappa is at Ex.P7. he has deposed that the voice-recorder had also been given to PW1 at the time of the entrustment mahazar to record the conversation and the recorded conversation was transferred to C.D. and that C.D. was also seized. He has deposed that Ex.P8 are the copies of the photographs taken at the time of the trap mahazar and Ex.P9 is the copy of the trap mahazar and Ex.P10 is the copy of the rough sketch of the scene of occurrence.

14. Ex.P9 is the trap mahazar, it is mentioned that the file of the complainant was produced by Sri Munianjinappa from the almirah of the DGO.

15. In his cross-examination PW1 has deposed that he do not know whether the DGO had made the shara in the mutation register that no objection is received and khatha may be transferred in the name of the complainant and that the file had been sent to Bhoomi Kendra on 12/07/2012. He has also deposed that he do not know whether the DGO was still holding his file as he had not filed his affidavit. He has denied the suggestion to the effect that on 13/07/2005 he had not at all met the DGO and the DGO had not at all asked him any bribe amount. He has also denied the suggestion to the effect that by force he kept the amount in the pant pocket of Sri Munianjinappa. He has denied the suggestion that he had ill-will against the DGO and hence he has filed the false case against the DGO. Thus PW1 in his evidence has clearly deposed about the DGO demanding the illegal gratification of Rs. 6,000/- and receiving the same through Sri Munianjinappa. As stated above, he has clearly deposed that as per the instructions of the DGO given to him for mobile phone he paid the amount to Sri Munianjinappa. As stated above even the DGO admits that as on the date of the trap the file of PW1 was with him on the ground that PW1 had not given the affidavit. Hence, it can be said that even after making note in that the khatha may be changed in the name of the complainant (PW1) in view of no objection received the DGO was still holding the file of PW1 on the ground that PW1

had not yet given his affidavit in respect of the notice given to him as per PW1.

16. PW2 is the shadow witness-Sri Ashok K.R. and he has deposed that as per the instructions of his higher officer he had been to Bengaluru Rural Lokayukta police station on 16/07/2012 and reported before the Police Inspector. He has deposed that his colleague Sri Naresh also reported before the Police Inspector as another pancha witness. He has deposed that PW1 was in the police station and PW1 was introduced to them and the copy of the complaint was given to them to go through the same. He has deposed that the copy of that complaint is at Ex.P2. He has deposed about the gist of the complaint-Ex.P2 also. He has deposed that PW1 produced the amount of Rs. 6,000/- and himself and another pancha witness Sri Naresh noted down the denomination and numbers of those notes in the white sheet and the copy of the same is at Ex.P3. He has deposed about the proceedings that were conducted in the Lokayukta police station mentioned in Ex.P5-entrustment mahazar. He has deposed that Ex.P4 are the copies of the photographs taken at the time of the entrustment mahazar. He has also deposed about the instructions that were given to him and to PW1. He has deposed that after the entrustment mahazar they left the Lokayukta police station to go to the office of the DGO situated in Devanahalli. He has deposed that on the way PW1 received the phone call from the DGO as to whether he is bringing the amount and PW1 told that he is bringing the amount. PW2 has further deposed that the vehicle was stopped at a little distance from the office of the DGO and the Revenue Inspector

and PW1 and himself went inside the office to meet the DGO and the other pancha witness and police inspector and his staff remained outside waiting for the signal of PW1. He has deposed that the DGO was not in the office and the assistant of the DGO by name Sri Munianjinappa was present. He has deposed that PW1 and Sri Munianjinappa talked with each other and at that time a call came to the mobile phone of Sri Munianjinappa and Sri Munianjinappa attended that call and gave the mobile to PW1 and PW1 also talked something in that mobile phone. He has deposed that afterwards PW1 gave the tainted currency notes to Sri Munianjinappa and Sri Munianjinappa received the same with his right hand and kept it in his right side pant pocket. He has deposed that afterwards PW1 gave the pre-instructed signal and immediately Police Inspector and his staff and another pancha came and PW1 showed Sri Munianjinappa and also told what happened. He has deposed that the right hand of Sri Munianjinappa was washed in the solution and that solution turned to pink colour and that solution was also seized. He has deposed that when Sri Munianjinappa was questioned about the amount received from PW1 he told that the amount is in his right pant pocket and the pancha witness Sri Naresh removed the amount that was in the right side pant pocket of Sri Munianjinappa and those notes were the same notes mentioned in Ex.P3 and the same was seized. He has also deposed about the pant wash of the DGO also. He has deposed that the copy of the explanation given by Sri Munianjinappa is at Ex.P7 and himself and PW1 told the police inspector that the explanation given as mentioned in Ex.P7 is false. He has deposed that the file of PW1 was also

secured from the almirah of the DGO and the certified copies of the same was prepared and seized. He has deposed that PW1 had been given a voice-recorder at the time of the entrustment mahazar to record the conversation and that voice-recorder was played and the recorded the conversation was transcribed and transferred to the C.D. He has deposed that the copy of the trap mahazar is at Ex.P9 and copies of the photographs taken at the time of the trap mahazar are at Ex.P8. He has deposed that the police inspector prepared the sketch of the scene of occurrence and the copy of the same is at Ex.P10.

17. PW2 has deposed after about 2 months the recorded conversation was played and the Deputy Tahasildar, Sri Ajith kumar identified the voice of Sri Munianjinappa and the DGO and the copy of the panchanama prepared at that time is at Ex.P11. It is the contention of the learned counsel for the DGO that there is no certificate as contemplated in Sec. 65(B) of the Indian Evidence Act in respect of Ex.P20 and P22. Ex.P20 is to the effect that mobile No. 97439 12132 stands in the name of Sri Shylaja w/o Ganganarasimaiah and Ex.P22 is the call details. The transcription of the recorded conversation is mentioned in the trap mahazar. But there is no certificate u/sec. 65(B) in respect of that conversation. I feel the conversation mentioned in Ex.P9 cannot be relied upon for want of certificate as stated above and this enquiry is decided on the basis of the other oral and documentary evidence adduced by the parties

18. PW2 in his cross-examination has also denied the suggestion of the learned counsel for the DGO to the effect that PW1 thrusting the tainted currency notes to the hands of Sri Munianjinappa. He has deposed that he was not able to hear the conversation between PW1 and Sri Munianjinappa but he has clearly deposed that he has seen PW1 and Sri Munianjinappa talking and Sri Munianjinappa giving his mobile phone to PW1 and PW1 talking in that mobile phone and afterwards PW1 gave the tainted currency notes to Sri Munianjinappa. Thus PW2 has also supported the case of the disciplinary authority.

19. PW3-Sri Gowtham, has deposed that from February 2011 to May 2013 he was working as Police Inspector in Lokayukta police station, Bengaluru Rural District. He has deposed that on 16/07/2012 at 2 p.m. PW1 came to the police station and gave the complaint as per Ex.P2. He has deposed that along with the complaint PW1/complainant also gave the copy of the notice issued to him in Form No. 14 and the copy of the same is at Ex.P1. He has deposed that on the basis of Ex.P2 he registered the case and sent the FIR to the concerned court and the copy of the FIR is at Ex.P12. He has deposed that he requested Drugs Controller officer to send the panchas and Sri K.R. Ashok and Sri Naresh A. were sent as panchas and they reported before him in the police station on the same day at 3 p.m. He has deposed that PW1 was introduced to the panchas and the panchas also went through, the copy of the complaint given by PW1. He has deposed about PW1 producing the amount of Rs. 6,000/- and about all other

proceedings that took place in the police station mentioned in the entrustment mahazar, the copy of which is at Ex.P5.

20. He has deposed that at 4.15 p.m. himself, PW1, and panchas left the Lokayukta police station and went to Revenue Inspector office situated in Devanahalli. He has deposed that on the way PW1 received a call from Mobile NO. 99720 25214 and PW1 told that it was the call from the DGO and he told that he is coming to meet him. He has deposed that PW1 received another call and PW1 told that it was the call from the mobile of Sri Munianjinappa asking him to come early. He has deposed that they went near the office of the DGO at 5.25 p.m. and PW1 and PW2 were sent inside the office to meet the DGO by reminding them of the instructions given to them at the time of Ex.P5. He has deposed that at about 5.50 p.m. PW1 gave the pre-instructed signal from the compound of the office of the DGO and immediately himself, his staff and another pancha went inside the office and the DGO was not present and PW1 showed the assistant of the DGO (Sri Munianjinappa) and told that as per the instructions given by DGO over phone he has given the tainted currency notes to Sri Munianjinappa. He has deposed that in introduced himself to Sri Munianjinappa and the right hand of Sri Munianjinappa was washed and the solution which was colourless turned to pink colour. He has deposed that the tainted currency notes were recovered from the right side pant pocket of Sri Munianjinappa. He has deposed that even the pant wash of Sri Munianjinappa was positive (inside the portion of the right side portion). He has deposed that the said Sri Munianjinappa produced the file of PW1 from the almirah of the DGO and the

certified copy of the same was prepared and seized and the copy of the same is at Ex.P6. He has deposed that Ex.P9 is the copy of the trap mahazar and Ex.P10 is the copy of the scene of occurrence. He has deposed that he had given the voice-recorder to PW1 at the time of Ex.P5 and in the same the conversation had been recorded by PW1 and that conversation was played on 27/09/2012 and the higher officer of the DGO by name Sri Ajith kumar rai identified the voice of the Sri Munianjnappa in the same. He has deposed that the copy of the mahazar drawn at that time is at Ex.P11. He has deposed that in the service particulars of the DGO is at Ex.P14. He has deposed that the seized articles were sent to the FSL and Ex.P16 is the copy of the FSL report. The right hand wash of the Sri Munianjinappa was positive. He has deposed that Sri Munianjinappa was dismissed from the service and the copy of the order in that respect is at Ex.P17. He has deposed that Ex.P18 is the information obtained from the Tahasildar. In Ex.P18 the Tahasildar has informed the investigating officer that the file of the complainant was in the almirah of the DGO as on the date of the trap. Hence, it has to be said that the file of the PW1 was with the DGO as on the date of the trap and he had not sent it to the Taluk Office or to the Revenue Inspector. He has deposed that the call details of the mobile phone of PW1 is at Ex.P20 and the call details of mobile phone of the DGO is at Ex.P21. He has deposed that the call details of the mobile phone of the Sri Munianjinappa is at Ex.P22.

21. PW3 has been cross-examined at length nothing is made out in his cross-examination to discard his evidence. Hence, absolutely there is no reasons as to why PW3 has falsely

deposed against the DGO or Sri Munianjinappa. He has deposed that sec. 65(B) certificates (as per the Indian Evidence Act) are not affixed to any of the documents in this case. As stated above even without considering the recorded conversation mentioned in Ex.P9 there is the believable evidence of PW1 and PW2 regarding the demand and acceptance of the bribe amount by the DGO as mentioned in the charge framed against the DGO.

22. DW1 is the DGO and he has deposed that the Revenue inspector received the file of PW1 on 18/06/2012 and the copy of the register in that respect is at Ex.D1. He has deposed that Ex.D1(a) is the relevant entry (for having received the file). He has deposed that he received the file on 20/06/2012 and served the Form No. 14 notice to PW1 on 21/06/2012 and Ex.P6(a) shows the same. He has further deposed that he instructed PW1 to produce the documents and after 5 or 6 days of the same PW1 produced some documents and the documents were produced only in respect of half amount of the sale consideration amount and he instructed PW1 to give the documents for the remaining half amount. He has deposed that he gave the file of PW1 to RRT section of taluk office on 06/07/2012. He has deposed that he gave the records to the RRT section of the Taluk Office on 06/07/2012 and the document to show the same is at Ex.D2. In Ex.D2 there is mention about the file of PW1 in Sl. No. 226. But it is not clear who has received that file and on what date. DW1 has further deposed that 30 days time given for filing the objection if any was over and hence he has made the shara that khatha can be transferred and his report is at Ex.P6(b). Ex.P6(b) is Form

No.12 in which the DGO has made the shara that no objection is received and khatha can be changed and Revenue Inspector has accepted the same on 12/07/2012. Only on the ground that the DGO has made the above said shara in Form No. 12 on 12/07/2012 it cannot be said that the work of PW1 was not pending with the DGO as admittedly on the date of the trap the file was with the DGO and it is also the case of the DGO that PW1 had not yet given the income certificate also. It is also not the case of the DGO that PW1 was not required to produce any other documents in pursuance of the notice given to him as per Ex.P1. Hence the contention of the DGO that the work of the PW1 was not pending with him cannot be accepted. As stated above, Ex.P18 is the copy of the letter written by Tahasildar Devanahalli to the I.O., in which it is clearly mentioned that the file of PW1 was in the possession of the DGO only as on the date of trap.

23. DW1 has further deposed that he came to know that the tainted currency notes were forcibly put into the pant pocket of Sri Munianjinappa. But there is no evidence of Sri Munianjinappa in support of the same. It is also pertinent to note that Ex.P7 is the copy of the explanation given by Sri Munianjinappa in which it is only stated that he has not received the amount. No where in the same it is stated that PW1 forcibly kept the tainted currency notes in his pant pocket.

24. Ex.P13 is the copy of the explanation given by the DGO on 25/07/2012 in which he has stated that on 16/07/2012 in the afternoon and in the evening he had made the phone call

to PW1. But he denies having instructed PW1 to give the amount to Sri Munianjinappa.

25. As stated above, there are no reasons to show why PW1 and PW2 have deposed falsely against the DGO. PW1 has clearly deposed about the demand for illegal gratification made by the DGO. He has also deposed that as per the instructions given to him by the DGO over mobile phone he gave the tainted currency notes to Sri Munianjinappa. PW2 has also deposed that PW1 met the DGO on 16/07/2012 (date of trap) and talked with him and Sri Munianjinappa also gave his mobile phone to PW1 to talk with person who has made the call to the mobile phone of Sri Munianjinappa and PW1 talked in that mobile phone and afterwards PW1 gave the tainted currency notes to Sri Munianjinappa, As stated above, the evidence of PW3 who is the I.O. also supports the case of the disciplinary authority. The facts and circumstances of this case stated above clearly supports the case of the disciplinary authority.

26. DGO has produced Ex.D7 which is the certified copy of the judgment passed in Special Case No. 75/2013, dated: 02/11/2015 by the Prl. Session Judge and Special Judge, Bengaluru Rural District at Bengaluru. Ex.D7 shows that on the same facts Lokayukta police had filed the criminal case against the DGO and Sri Munianjinappa and after trial both of them have acquitted on the ground that the prosecution was not able to prove its case beyond all reasonable doubt. It is pertinent to note that only on the ground that the DGO has been acquitted in the criminal case it cannot be held that, the

disciplinary authority has not proved its case in this departmental inquiry. It is well established principle of law that, in the criminal case the prosecution has to prove its case beyond all reasonable doubt. Where as in the departmental inquiry the evidence has to be scrutinised on the basis of the preponderance of probabilities. In the decision reported in **1997(2) SCC 699 in case of Depot Manager, APSRTC V/S Mohammed Yosuf Miya and others, (2005)7 SCC 764 between Ajit Kumar Nag v/s General manager (P) Indian Oil Corporation Limited, Haldia and others** and recent decision of Hon'ble Supreme Court in **(2012)13 Supreme Court Cases 142 in a case of Avinash Sadashiv Bhosale (dead) V/S Union of India and others** made out very clear that, the purpose of departmental inquiry and the prosecution are too different and distinct aspect though the two proceedings relates to the same set of facts. The nature of evidence in criminal case is entirely different from the departmental proceedings and in the criminal case the prosecution is required to prove the guilt of the accused beyond all reasonable doubt on the touch-stone of human conduct and where as the evidence required in a departmental inquiry is not regulated by the Evidence Act. Therefore, misconduct of the DGO required to be taken into consideration on the basis of preponderance of probabilities and merely the DGO has been acquitted in the criminal case by the judgment in Special Case No. 75/2013 on the Prl. Sessions Judge and Special Judge, Bengaluru Rural District at Bengaluru, by itself is not sufficient to overlook the evidence placed on record by the Disciplinary Authority.

27. The learned counsel for the DGO has relied upon the decision reported in 2014 AIR SCW 5695 in Anvar P.V.v/s P.K. Basheer and others wherein it is held as follows:

(A) Evidence Act (1 of 1872) S. 59, S. 65A, S. 65B, S. 63, S.65-Electronic records –Admissibility-Secondary evidence of electronic record-Inadmissible unless requirements of S. 65B are satisfied.

28. In this enquiry I have not at all relied upon Ex.P20 to P22 or on the transcription of the conversation noted in the trap mahazar. Hence, the above said decision is not of any help to the DGO.

29. The learned counsel for the DGO also relies upon the decision reported in (2011) 7 Supreme Court Cases 789 in Jagadish Prasad v/s State of Rajasthan and others, AIR 2014 Supreme Court 88 in Union of India and others v/s B.V. Gopinath and the judgment of the Supreme Court of India in S. Bhaskar Reddy, Superintendent of Police, dated: 28/11/2014. But the facts of those cases are different from the facts of this enquiry.

30. The learned counsel for the DGO relies upon the decision reported in AIR 2006 Supreme Court 2129 in G.M. Tank v/s State of Gujarat and another. In the above said cases there was honorable acquittal in the criminal case. But the judgment passed in the criminal case Ex.D7 shows that the DGO has been acquitted only on the basis of benefit of

doubt and nowhere in the above said judgment it is held that the prosecution case is false or concocted.

31. The Learned counsel for the DGO has relied upon the decisions reported in AIR 1999 Supreme Court 1416 in Capt. M. Paul Anthony V/s Bharat Gold Mines Limited and another, AIR 1978 Supreme Court 1277 in Nand Kishore Prasad v/s State of Bihar and others, AIR 1972 Supreme Court 2535 in State of Assam v/s Mohan Chandra Kalita and another. The facts of this case are different from the facts of the above said cases and as stated above the evidence adduced by the disciplinary authority clearly proves the case of the disciplinary authority.

32. Thus the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servant. Hence, I answer the above point No.1 in the **AFFIRMATIVE**.

33. Point NO.2:- For the reasons discussed above, I proceed to pass the following:-

:: ORDER ::

*The Disciplinary Authority has satisfactorily proved the charge against the DGO- Sri Ganga Narasimhaiah, Village Accountant, Bidaluru Circle, Kasaba Hobli, Devanahalli Taluk, **Bengaluru Rural District**.*

34. Hence this report is submitted to Hon'ble Upalokayukta-2 for kind perusal and for further action in the matter.

Dated this the 31st day of May, 2019

-Sd/-
(Somaraju)
Additional Registrar Inquiries-4,
Karnataka Lokayukta,
Bengaluru.

:: ANNEXURE ::

LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:

PW-1: Sri Manjunath (complainant)
PW-2: Sri Ashok K.R. (shadow panch witness)
PW-3: Sri Gouatham (I.O.)

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:

DW-1: Sri K. Ganga narasimhaiah (DGO)

LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY

Ex.P-1: Certified copy of the Form No. 14
Ex.P-2: Certified copy of the complaint
Ex.P-3: Certified copy of the notes numbers and denomination mentioned white sheet
Ex.P-3(a): Relevant entry in Ex.P3
Ex.P-4: Certified copy of the Xeroxed photos on the white sheet (five sheets)
Ex.P-5: Certified copy of the entrustment mahazar
Ex.P-5(a): Relevant entry in Ex.P5
Ex.P-6: Certified copy of the file of the complainant (totally 44 sheets)
Ex.P6(a),(b): Relevant entries in Ex.P6
Ex.P-7: Certified copy of the explanation of Sri Munianjinappa
Ex.P-7(a): Relevant entry in Ex.P7
Ex.P-8: Certified copy of the xeorxed photos on the white sheet (containing 4 sheets)
Ex.P-9: Certified copy of the trap mahazar
Ex.P-9(a): Relevant entry in Ex.P9
Ex.P-10: Certified copy of the rough sketch
Ex.P-10(a); Relevant entry in Ex.P10
Ex.P-11: Certified copy of the recorded conversation of the DGO's panchaname
Ex.P-11(a): Relevant entry in Ex.P11

- Ex.P-12:Certified copy of the FIR (two sheets)
 Ex.P-12(a): Relevant entry in Ex.P12
 Ex.P-13:Certified copy of the DGO's statement
 Ex.P-13(a,b): Relevant entry in Ex.P13
 Ex.P-14:Certified copy of the letter of P.I. KLA, dated; 29/09/2012
 addressed to the D.C. Bengaluru Rural District
 Ex.P-14(a): Certified copy of the service particulars of the DGO
 Ex.P-15:Certified copy of the letter of P.I. KLA, dated; 29/09/2012
 addressed to the Tahasildar, Devanahalli Taluk
 Ex.P-15(a): Certified copy of the service particulars of Sri
 Munianjinappa
 Ex.P-16: Certified copy of the chemical examination report
 Ex,.P16(a): Relevant entry in Ex.P16
 Ex.P-17:Certified copy of the order passed by the Tahasildar dated:
 05/09/2012
 Ex.P17(a): Relevant entry in Ex.P17
 Ex.P-18:Certified copy of the letter of the Tahasildar, dated:
 17/10/2012 addressed to the Police Inspector, KLA,
 Bengaluru Rural district
 Ex.P-19:Certified copy of the sketch
 Ex.P-20,21: Certified copy of the information about the call details
 Ex.P20(a), P21(a): Relevant entries in Ex.P20, P21
 Ex.P-22:Certified copy of the call details
 Ex.P-22(a): Relevant entry in Ex.P22
 Ex.P-23:Original reply of the DGO to the observation note dated:
 29/10/2013

LIST OF EXHIBITS MARKED ON BEHALF OF DGO:

- Ex.D-1:Certified copy of the 2011-12 register given by R.I.
 Ex.D-1(a): Relevant entry in Ex.D1
 Ex.D-2:Certified copy of the register extract
 Ex.D-2(a): Relevant entry in Ex.D2
 Ex.D-3:Certified copy of the letter of Tahasildar dated: 16/02/2015
 addressed to the DGO
 Ex.D-4:Certified copy of the Bandu stone register
 Ex.D-4(a); Relevant entry in Ex.D4
 Ex.D-5:Original mutation register
 Ex.D-6:Original Mutation Form No. 46
 Ex.D-7:Certified copy of the judgment passed in Special Case No.
 75/2013

Dated this the 31st day of May, 2019

-Sd/-

(Somaraju)

Additional Registrar Inquiries-4,
 Karnataka Lokayukta,
 Bengaluru.